



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

November 11, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Edith Miranda**
Tax Registry No. 924208
33rd Precinct
Disciplinary Case No. 2012-7775

GHAM

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on May 14, 2014 and was charged with the following:

DISCIPLINARY CASE NO. 2012-7775

1. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, at about 1030 hours, while on-duty, inside [REDACTED], wrongfully used discourteous or disrespectful language towards another member of the service, including remarks regarding said individual's sexual orientation.

P.G. 203-09, Page 1, Paragraph 2

**PUBLIC CONTACT - GENERAL
GENERAL REGULATIONS
PUBLIC CONTACT - PROHIBITED
CONDUCT
GENERAL REGULATIONS**

P.G. 203-10, Page 1, Paragraph 1

2. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, at about 1030 hours, while on-duty, [REDACTED] engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully and without just cause punched another member of the service on his right arm.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED
CONDUCT
GENERAL REGULATIONS**

3. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, while on-duty and assigned to perform a tour from 0700 hours to 1523[] hours, having been involved in an altercation with another member of the service, left work at approximately 1030 hours without permission and without signing "out," as required.

P.G. 203-05, Page 1, Paragraph 2

**PERFORMANCE ON DUTY - GENERAL
GENERAL REGULATIONS**

POLICE OFFICER EDITH MIRANDA

DISCIPLINARY CASE NO. 2012-7775

4. Said Police Officer Edith Miranda, while assigned to Viper Unit #1, on or about July 6, 2012, while on duty and while being interviewed as a subject during an official Department investigation being conducted by members of the Internal Affairs Bureau, Special Investigations Unit, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully impeded said official investigation by making untruthful or misleading statements regarding her knowledge of the sexual orientation of another member of the service.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS**

5. Said Police Officer Edith Miranda, while assigned to Viper Unit #1, on or about July 6, 2012, while on duty and while being interviewed as a subject during an official Department investigation being conducted by members of the Internal Affairs Bureau, Special Investigations Unit, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully impeded said official investigation by making untruthful or misleading statements regarding her having been granted permission to leave work prior to the end of her scheduled tour on May 15, 2012.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS**

6. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about and between January 30, 2012 and May 15, 2012, wrongfully did fail and neglect to review a client's case folder, as directed by her Commanding Officer, Sergeant Daniel Sweeney.

P.G. 203-05, Page 1, Paragraph 1

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

In a Memorandum dated July 30, 2014, Assistant Deputy Commissioner David S. Weisel found the Respondent Guilty after she pleaded Guilty to Specification Nos. 1, 2, 3, 4, 5 and 6 in Disciplinary Case No. 2012-7775. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and the issues in this matter and deem that the Respondent's misconduct warrants a higher penalty. Therefore, the Respondent is to forfeit thirty (30) vacation days, as a disciplinary penalty.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

July 30, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Edith Miranda
Tax Registry No. 924208
33 Precinct
Disciplinary Case No. 2012-07775

The above-named member of the Department appeared before the Court on May 14, 2014, charged with the following:

1. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, at about 1030 hours, while on-duty, [REDACTED] wrongfully used discourteous or disrespectful language towards another member of the service, including remarks regarding said individual's sexual orientation.

P.G. 203-09, Page 1, Paragraph 2 PUBLIC CONTACT GENERAL
GENERAL REGULATIONS

P.G. 203-10, Page 1, Paragraph 1 – PUBLIC CONTACT PROHIBITED CONDUCT
GENERAL REGULATIONS

2. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, at about 1030 hours, while on-duty, inside [REDACTED] engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully and without just cause punched another member of the service on his right arm.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED CONDUCT
GENERAL REGULATIONS

3. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about May 15, 2012, while on-duty and assigned to perform a tour from 0700 hours to 1523[] hours, having been involved in an altercation with another member of the service, left work at approximately 1030 hours without permission and without signing "out," as required.

P.G. 203-05, Page 1, Paragraph 2 PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS

4. Said Police Officer Edith Miranda, while assigned to Viper Unit #1, on or about July 6, 2012, while on duty and while being interviewed as a subject during an official Department investigation being conducted by members of the Internal Affairs Bureau, Special Investigations Unit, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully impeded said official investigation by making untruthful or misleading statements regarding her knowledge of the sexual orientation of another member of the service.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED CONDUCT
GENERAL REGULATIONS

5. Said Police Officer Edith Miranda, while assigned to Viper Unit #1, on or about July 6, 2012, while on duty and while being interviewed as a subject during an official Department investigation being conducted by members of the Internal Affairs Bureau, Special Investigations Unit, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully impeded said official investigation by making untruthful or misleading statements regarding her having been granted permission to leave work prior to the end of her scheduled tour on May 15, 2012.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS

6. Said Police Officer Edith Miranda, while assigned to the Counseling Services Unit, on or about and between January 30, 2012 and May 15, 2012, wrongfully did fail and neglect to review a client's case folder, as directed by her Commanding Officer, Sergeant Daniel Sweeney.

P.G. 203-05, Page 1, Paragraph 1 PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS

The Department was represented by Javier R. Seymore, Esq., Department Advocate's Office. Respondent was represented by Michael Martinez, Esq., Worth, Longworth & London LLP.

Respondent pleaded Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 15-year member of the Department, had been assigned to the 44 Precinct for ten-and-a-half years and worked patrol. There was an opening in the Counseling Services Unit (CSU) and she applied for it as a way to advance her career. She was a psychology major in college. CSU accepted her application and she was assigned there in October 2011.

CSU was located at [REDACTED]. One of its functions, part of its overall mission to treat officers with substance abuse problems, was to conduct group therapy sessions. These were comprised of two counselors and 10 to 12 members of the service, referred to in CSU as clients. The formal rank structure was set aside at CSU for the most part. People referred to each other in a relaxed way or on a first-name basis.

On May 15, 2012, Respondent was involved in an altercation with a client. The client was a sergeant [REDACTED]

[REDACTED]

[REDACTED]

Respondent had sat in on four or five group sessions with the client as a counselor. On the day in question, the client came to CSU. He had been instructed by Respondent's co-counselor and senior CSU staff member, Detective Karl Schaefer, to come in. The client's treatment agreement had been to attend Alcoholics Anonymous (AA) meetings five days a week, to attend group therapy, and to see a private therapist. The client wanted to change this to seeing his therapist twice a week, instead of once a week, to avoid attending AA meetings. Sergeant

Daniel Sweeney, the commanding officer of CSU, had ruled that the client still had to go to AA. Schaefer asked the client to come in because Schaefer wanted to call the therapist and confirm that the therapist actually was going to see him twice a week.

Respondent and Schaefer were waiting for the client when he arrived. He was talking to another client when Respondent let him know that she and Schaefer were ready for him. When Respondent called his name, he looked at her and waved his hand as to dismiss her.

After a few minutes, Respondent returned to the client and told him that they really needed to start the meeting. The client said "whatever" and dismissed her again. But he finally entered the office and the meeting began. Schaefer called the therapist and verified that the therapist could see the client twice a week. Respondent asked Schaefer on which days the therapist would be seeing the client, "or something to that effect." The client looked at her and said, "[W]hy don't you shut up. You have nothing to contribute to this conversation."

Respondent was stunned and said "excuse me. What?" The client answered, "[Y]ou heard me, why don't you shut up. You have nothing to contribute to this conversation, so just shut up." Respondent asked him what was wrong and why he was speaking to her like that. He just kept telling her to shut up and called her a loser. No client ever had spoken to her like that before. Schaefer was sitting there but did nothing.

Respondent asked the client if he would prefer to speak to a male counselor. She conceded that she knew he was gay. During his inpatient rehabilitation program, he was caught in the shower with another man. "[S]omeone had called" CSU with this information and it became known around the office. Respondent maintained, however, that she was not thinking about the client's sexual orientation when she offered this option. Some people in the therapeutic setting simply opened up more to a person of a particular gender.

Finally Schaefer intervened and said, “[O]kay, we are going to end this meeting.” When Respondent walked out of the office, the client was behind her and said, “[Y]ou’re a fucking bitch” twice. He added, “[S]hut the fuck up, you fucking loser. . . . Why are you even speaking?” Respondent began fighting back. She said, “[N]o, you shut the fuck up.” He called her a “stupid bitch” and she retorted that he was the “stupid bitch.”

Respondent walked to the other side of the office, sat at her desk, and cried. She described herself as hysterical. She never had been spoken to like that before, even in all her years on patrol in the 44 Precinct. She felt that she needed some air and decided to leave and go to her car to be away from everyone. Respondent grabbed her purse and went to wait for the elevator, where the client also was waiting. Respondent acknowledged that she should have gone back inside and waited for him to leave first, but she did not want him to get the best of her. As Respondent was standing at the elevator, he was staring at her with a smirking expression. When Respondent asked him what his problem was, he began repeating that she was “such a fucking loser” and told her to “shut the fuck up, you stupid bitch.” He was saying it “like in a low, calm manner where it was just so vile.” She told him that there was “something seriously wrong with you” and that she was going to pray for him.

When the client continued to ridicule her, Respondent hit him with a closed fist in the upper right arm because she “wanted him to like snap out of whatever he was doing.” She did not punch him to start a fight or intend to hurt him. Rather, she just wanted him to stop calling her such horrible names. Instead, he grabbed his arm and kept saying that Respondent punched him, “making a huge spectacle out of it” as if she “wailed on him or something.” He kept calling her a “stupid bitch.” She responded by saying, “[O]h, shut the fuck up you faggot.” She might have said “fucking faggot.” Respondent claimed, however, that she was not trying to insult the

client's sexual orientation when she said it. In fact, she used to call her brother that all the time when they would fight. She was only trying to hurt the client the way that he was hurting her.

Some people from the office came to the elevator, including Schaefer. Respondent got in the elevator and went to her car. Respondent indicated that because CSU was a relaxed command in terms of paramilitary function, members generally were allowed to leave for errands and the like. She agreed, however, that "[t]echnically" she should have received permission first.

Respondent testified that she sat and cried in her car for approximately fifteen minutes before texting Sweeney to ask if she could leave for the day. She did not tell him what happened even though he asked. She told him she just needed to leave. Sweeney gave her permission.

One or two days later, Respondent was placed on modified duty.

During Respondent's official Department interview on July 6, 2012, Respondent falsely told the interviewers that she did not know the client was gay. Respondent reiterated that she had not meant it to relate to his sexual orientation. She just "wanted to let them know I said it because I just said it." During her follow-up official interview, she told the truth and explained as she did at trial.

Respondent also told investigators during her first interview that she was given permission to leave work. In fact, she went to her vehicle for fifteen minutes before actually receiving permission. She agreed that it was not abnormal for CSU personnel to "step out" for that length of time.

Respondent testified that she regretted how she acted. She would take it back and apologize to the client personally if she could. As a result of being modified, her house almost went into foreclosure and she had to borrow \$44,000 from her pension. She currently was assigned to patrol at the 33 Precinct. She was happy to be there.

On cross examination, Respondent characterized the client's behavior in group sessions as "[i]ntroverted, smug, arrogant, a smart aleck." She agreed that dealing with difficult clients was mentioned during her CSU training, but nothing like the client's actions ever was described.

Respondent acknowledged that there was a command log at CSU and she was supposed to sign in and out of it. She did not do so on the day of the incident.

Upon questioning by the Court, Respondent testified that she had interacted with approximately 40 to 50 clients on a therapeutic level, such as in intake interviews or group sessions. Some of her clients were angry and upset when questioned but it never was a personal reaction toward her. She responded differently with the client in question here because he was attacking her personally, directing his anger at her.

Respondent confirmed that the AA sessions were not conducted at CSU. She had not sat in on an AA meeting before. Respondent did not suspect that the client was intoxicated at the time of this incident.

During the meeting with the client, Respondent got the sense that Schaefer did not care about the client berating her and was letting her fend for herself. She did not think that he was allowing the client to vent therapeutically.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on July 7, 1999. Information from her personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded Guilty to being involved in an altercation at the Counseling Services Unit. She was assigned there as a counselor in training. The client in question was a sergeant. Respondent indicated that the client was present at CSU for group therapy related to alcohol abuse or dependence. He wanted to change his outpatient therapy schedule and did not want to keep going to AA meetings. He needed to meet with CSU personnel for approval.

Respondent testified the client was dismissive from the start that day. When she asked her CSU superior in the client's presence about the scheduling, he told her, in sum and substance, to "shut up" and that she was a "loser." Respondent described herself as shocked. She asked the client what was wrong but he kept haranguing her profanely, adding that she was a "fucking bitch." Respondent had experienced angry clients in the therapeutic setting before but never in such a personally directed way. The detective with Respondent, who was assigned to CSU permanently, did nothing to intervene.

Respondent returned to her desk where she started crying. She said that she decided to leave the office and clear her head. Intending to go to her car, she went to the elevator, where she again encountered the client. She did not retreat because she did not want him to think he had gotten the best of her. When he kept berating her, she responded by calling him a "fucking faggot."

Respondent admitted that she knew the client was gay. This fact had become known as the result of a sexual encounter during his inpatient rehabilitation. It was spoken of at the CSU office. Respondent denied, however, that she was thinking about this fact, and maintained that she meant the insult only as a general retort, not as something anti-gay. She also punched the client on the arm, not to injure him but out of frustration. She then left for the day.

When Respondent was subjected to an official Department interview concerning the incident, she denied knowing the client's sexual orientation. At trial she testified that she lied because she had not been thinking about that fact at the time of the insult. She also claimed at the interview that she had permission to leave the command. She explained at trial that CSU personnel generally were allowed to leave for brief periods of time. She added that while she was sitting in her car, she texted her commanding officer, who apparently had not been in that day. Even though he asked her what was wrong, she told him that she just needed to leave. He assented.

Respondent pleaded Guilty to six specifications: making discourteous remarks to the client, including the central "faggot" one; punching him on the arm; leaving work without permission; both false statements in the official interview; and failing to review the client's file as she had been directed by her supervisor.

The Advocate recommended a penalty of the loss of 30 vacation days and the imposition of dismissal probation for a period of one year. Respondent urged that the penalty be 20 vacation days. She contended that her behavior on the day in question was provoked by the client. She also argued that the incident was an aberration in an otherwise fine career. She was placed on modified duty for some time, causing her financial difficulty. The Advocate basically contended that probation was justified by the prejudicial nature of Respondent's comments and her escalation of the incident to the physical.

Dismissal probation may be imposed where the officer's prior disciplinary record indicates that prior penalties have not led to improved conduct, where the facts indicate that the officer again will engage in misconduct, or where the nature of the case justifies the penalty. See Case No. 2011-05299, pp. 9-10, 12 (Dec. 17, 2012).

After the incident, Respondent was modified and eventually returned to patrol. She will not be seeing clients at CSU again. She was aware that her conduct led to financial difficulty for herself.

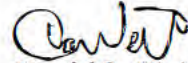
Uniformed members of the Department often must deal with angry individuals, even those that lob personal insults at officers. A substance abuse counselor in particular should expect that clients will be angry, perhaps even intoxicated. Here, the client personally attacked Respondent. She should not have taken the bait but she did. She certainly should not have referenced the client's sexual orientation and then hit him in the arm. Nevertheless, the Court has taken into account the fact that the incident was provoked by the client entirely and that the Department failed to show Respondent's words arose from a deep discriminatory animus. Finally, Respondent should have answered the questions at her official interview honestly rather than parsimoniously. The impeding of the investigation, however inappropriate, did not seem to cause significant harm, as the true facts easily were uncovered.

Respondent has no prior disciplinary history. There thus is no sign of the kind of angry, disrespectful and discourteous conduct with which she responded to the client in question here. The client apparently did not suffer physical injury or seek medical attention.

As such, dismissal probation is not warranted. A penalty of vacation days only is sufficient to penalize the serious misconduct here. Taking the various acts in tandem, the Court recommends a penalty of the forfeiture of 20 vacation days. See Case Nos. 84153 & 84734/08 (June 19, 2012) (15 vacation days for officer who made remarks, which he found amusing, about perceived sexual orientation of several truants that were being held at his station house); Case Nos. 86601 & 86603/10 (Mar. 26, 2012) (20 days for engaging in on-duty physical altercation

with partner, failing to notify IAB, and denying the physical nature of the altercation during the investigation).

Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

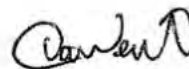
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER EDITH MIRANDA
TAX REGISTRY NO. 924208
DISCIPLINARY CASE NO. 2012-07775

Respondent received an overall rating of 3.5 “Highly Competent/Competent” on her last three annual performance evaluations. [REDACTED]

[REDACTED]

[REDACTED] She has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner – Trials